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**TITLE 71 INDIANA HORSE RACING COMMISSION**

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**Emergency Rule**  
LSA Document #09-982(E)**DIGEST**

Amends [71 IAC 11-1-13](#) concerning "transfer of permits". Effective September 1, 2009. *NOTE: [IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. This document was filed with the Publisher December 10, 2009.*

**[71 IAC 11-1-13](#)**

SECTION 1. [71 IAC 11-1-13](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 11-1-13](#) Transfers of permits**

**Authority:** [IC 4-31-3-9](#); [IC 4-31-5-8](#)

**Affected:** [IC 4-31-5](#); [IC 4-31-13-1](#)

Sec. 13. (a) A permit issued under [IC 4-31-5](#) is for the benefit of the permit holder only and is applicable only to the location for which the permit is issued. The permit may not be sold or otherwise transferred and shall terminate upon a change of ownership of the permit holder, unless the commission has granted prior written approval of the change of ownership or unless this section has been otherwise complied with.

(b) The sale, pledge, encumbrance, execution of an option agreement, or other transfer of five percent (5%) or more of the equity securities or other ownership interest of a partnership, association, corporation, or other entity holding a permit shall be considered a substantial change of ownership. A "substantial change in ownership", for purposes of this subsection, includes ownership, directly or indirectly, by a person, individually or in association with others, contingent or otherwise, whether through a subsidiary or intermediary, who acquires or has a right to acquire, directly or indirectly, a five percent (5%) or more beneficial ownership of the permit holder. Any request for approval of a substantial change in ownership shall contain the same information that is required to be furnished under section 4 of this rule. Upon receipt of all information required by the commission with regard to a proposed substantial change in ownership, the commission shall, as soon as practicable, make a determination whether to authorize and approve the substantial change in ownership of a permit holder.

(c) The sale, pledge, encumbrance, execution of an option agreement, or other transfer of ownership of a permit which is less than five percent (5%) of the equity securities or other ownership interest of a partnership, association, corporation, or other entity holding a permit shall be considered a nominal change of ownership. A request for approval to make a nominal change of ownership shall be filed with the commission within fifteen (15) days of the execution of the documents upon which the proposed nominal change of ownership will be based. The commission shall determine whether the proposed nominal change of ownership may have an adverse effect upon pari-mutuel racing or the integrity of pari-mutuel racing. Upon receipt of all information required by the commission with regard to a proposed nominal change of ownership, the commission or its executive director shall, as soon as practicable, make a determination whether to authorize and approve the nominal change in ownership of a permit holder.

~~(d) In making a determination whether to authorize and approve either a proposed nominal or substantial change in ownership, the commission will consider the extent to which the state would share in any monetary payment to or economic benefit realized by the person divesting the ownership interest.~~

~~(e)~~ (d) For purposes of subsections (a) and (b), commission approval is not required for:

- (1) the transfer of an ownership interest in a permit holder whether substantial or nominal, direct or indirect, if by a publicly traded corporation, and if the beneficial ownership transferred is acquired by a person who will hold the voting securities of the publicly traded corporation for investment purposes only; or
- (2) a debt transaction of a publicly traded corporation unless such transaction results in the pledge or encumbrance of the assets or any portion thereof of the permit holder.

A "publicly traded corporation" is one that has voting securities registered under Section 12 of the Securities and

Exchange Act of 1934 (1934 Act), or issues securities subject to Section 15(d) of the 1934 Act, or has voting securities exempted from the registration requirements due to Section 3 of the Securities Act of 1933, or is required to file under the 1934 Act.

(f) (e) Any promise, agreement, sale, pledge, encumbrance, option agreement, or other transfer of ownership of a permit, either nominal or substantial, not memorialized by and reduced to writing will be considered void by the commission.

(g) (f) False or misleading information, omission of required information, or substantial deviations from representations in a request for a transfer of any interest in a permit issued by the commission may be cause for termination of the permit, denial of the request for approval, and the imposition of any sanction available to the commission pursuant to [IC 4-31-13-1](#).

(Indiana Horse Racing Commission; [71 IAC 11-1-13](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1213; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2112; errata filed Jun 21, 2001, 3:21 p.m.: 24 IR 3652; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); emergency rule filed Jun 12, 2007, 1:17 p.m.: [20070620-IR-071070341ERA](#), eff Jun 8, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-341(E) was filed with the Publisher June 12, 2007.]; emergency rule filed Dec 10, 2009, 1:25 p.m.: [20091216-IR-071090982ERA](#), eff Sep 1, 2009 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-982(E) was filed with the Publisher December 10, 2009.])

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